

United States District Court
Eastern District of Michigan

United States of America,

Plaintiff,

No. 20-mj-30487

v.

Hon. R. Steven Whalen

Kaden Gilbert,

Defendant,

**Stipulation and Order Extending the Preliminary Hearing and Time in which
an Indictment Must be Returned and Finding Excludable Delay**

The parties jointly submit this stipulation and request that the Court order the time period in which an indictment must be returned be continued to June 22, 2021 and find that the ends of justice served by this continuance outweigh the best interests of the defendant and the public in a speedy indictment.

Ordinarily, an indictment must be returned within thirty days from the date on which a defendant is arrested on a complaint. 18 U.S.C. § 3161(b). That period may be continued by the Court, however, and under some circumstances the resulting period of delay may be found to be excludable delay for purposes of the 30-day clock of § 3161(b). 18 U.S.C. § 3161(h)(7)(A). Defendant had her first appearance on November 19, 2020. The date in which to indict was stayed temporarily in this case due to defendant's motion for a competency exam which

has now been withdrawn. Later, the parties agreed to extend the dates for the preliminary hearing and time in which to indict to May 3, 2021.

The parties jointly request that the preliminary hearing scheduled be adjourned and the Court continue the preliminary hearing and the period in which an indictment to June 22, 2021 because the government expects to receive additional discovery materials in the case, such as crime lab reports involving DNA and fingerprints, which are not expected to be available until after May 3, 2021. *See 18 U.S.C. § 3161(h)(7)(B)(iii).* Further both parties need additional time to prepare for the preliminary hearing.

The parties request that the Court continue the time for indictment as requested on an independent basis under the ends-of-justice provision for the reasons set forth above.

The parties further stipulate and request that the Court find that, in light of the factors set forth in § 3161(h)(7)(B), the ends of justice served by this continuance outweigh the best interests of the defendant and the public in a speedy indictment, and that such time should therefore be excluded from the time within which an indictment must be filed. *See 18 U.S.C. § 3161(h)(7)(A)* (allowing for periods of excludable delay); *see also* [Administrative Order 20-AO-39](#) (excluding time resulting from adjournments in criminal matters “during the time of the spread of ... COVID-19” and finding that “[t]he unprecedented and exigent circumstances

created by COVID-19 and related coronavirus health conditions have created a health emergency throughout the United States and numerous foreign countries that has resulted in widespread societal disruption.”).

Respectfully submitted,

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United States District Court
Eastern District of Michigan

United States of America,

Plaintiff,

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v.

Hon. R. Steven Whalen

Kaden Gilbert,

Defendant,

**Order Adjourning the Preliminary Hearing and Continuing the Time in
Which an Indictment or Information Must be Filed and Finding Excludable
Delay**

The Court has considered the parties' stipulation and joint motion to continue the preliminary hearing and the time period in which an indictment must be filed until June 22, 2021 and hereby grants that request. For the reasons described in the parties' submission, the Court specifically finds that there is discovery that is not likely to be completed and available until after the current date set for the preliminary hearing in the case. The Court further finds that failure to grant a continuance would likely make a continuation of the proceeding impossible, or result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

Accordingly the Court finds, after considering the factors set forth in 18 U.S.C. § 3161(h)(7)(B), that the ends of justice served by this continuance outweigh the best interests of the public and the defendant in a speedy trial and that the continuance qualifies as excludable delay under 18 U.S.C. § 3161(h)(7)(A).

IT IS THEREFORE ORDERED that the preliminary hearing be adjourned and the time in which the government must return an indictment is extended and that the following deadlines will apply to these proceedings:

Preliminary hearing: June 22, 2021

Time in Which to Indict: June 22, 2021

Date: April 19, 2021

S/ PATRICIA T. MORRIS
Patricia T. Morris
United States Magistrate Judge